



Supreme Court of Guam

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HON. F. PHILIP CARBULLIDO
CHIEF JUSTICE

HANNAH G. ARROYO
CLERK OF COURT

January 10, 2022

To: All Guam Bar Association Members

Re: Notice and Opportunity to Comment on Proposed New Rule CVR 56.1 and Proposed Amendments to Various Rules and Forms Regarding Civil Practice

Dear GBA Members:

The Supreme Court of Guam is considering adopting a new Civil Rule 56.1 (Summary Judgment) of the Local Rules of the Superior Court Guam.

In addition, the Supreme Court is considering adopting amendments to the following rules and forms affecting civil practice of law:

- Local Rules of the Superior Court Guam, Civil Rule 7.1(j) Rule Applications for Orders Shortening Time; and CVR Form 4.
- Local Rules of the Superior Court Guam, Civil Rule 7.1 (k) Ex Parte Applications; and CVR Form 5.
- Local Rules of the Superior Court Guam, Civil Rule 56 (Summary Judgment).
- Local Rules of the Superior Court Guam, General Rule 1.1 (Title; Effective Date; Scope).
- Local Rules of the Superior Court Guam, Miscellaneous Rule 2.1.3(a) (Hearings and Notice).
- Guam Rule of Civil Procedure, Rule 6 (Time).

Written comments on the proposed amendments and forms will be accepted through **Thursday, February 10, 2022**, and may be sent by email to Hannah G. Arroyo, Clerk of Court for the Supreme Court of Guam, at hgutierrezarroyo@guamcourts.gov, or to the following address:

Hannah G. Arroyo, Clerk of Court
Supreme Court of Guam
Suite 300, Guam Judicial Center
120 West O'Brien Drive
Hagåtña, Guam 96910

Proposed New Rule
Guam Rule of Civil Procedure 56.1

Rule 56.1. Summary Judgment.

(a) Motion. Any motion for summary judgment must include:

(1) a statement of the issues to be decided by the court; and

(2) a “Statement of Undisputed Material Facts” with references to supporting material in the record.

(b) Response. Any response to a motion for summary judgment must include:

(1) a statement of the issues to be decided by the court if the nonmovant is dissatisfied with the movant’s statement of the issues; and

(2) a response to the “Statement of Undisputed Material Facts,” which may include a statement of material facts that demonstrate the existence of a genuine factual dispute to be tried, with references to supporting material in the record.

SOURCE: E.D. Tex. Local Rule CV-56 (2021); D. Mass. Local Rule 56.1 (2021).

COMMENT: This is a proposed new rule, modeled after similar rules in many other jurisdictions that require a party moving for or opposing summary judgment to explicitly provide the court with the issues and undisputed facts relevant to the motion for summary judgment.

Proposed Amended Rule
Local Rules of the Superior Court Guam, Civil Rule 7.1(j)

CVR 7.1. Motion Practice.

...

(j) Applications for Orders Shortening Time.

(1) When it is necessary for a matter to be heard earlier than the time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure, the party who desires to shorten time shall file a separate application for an order shortening time using CVR 7.1 FORM 4 “Application to Shorten Time; Order.”

(2) Applications for an order to shorten time shall include the following information:

(A) The reasons why it is necessary to shorten time;

(B) That the opposing parties have been given notice of the application to shorten time, or if there is no opposing party, that all notices have been given as required by law; and

(C) Whether the opposing (or interested) parties agree to shorten time on the matter, or the reasons why an agreement on the application to shorten time could not be obtained.

(3) A separate CVR 7.1 Form 1 “Notice of Motion and Motion” is not required to accompany the CVR 7.1 Form 4 “Application to Shorten Time; Order.” However, a CVR 7.1 Form 1 “Notice of Motion and Motion” is required to accompany the motion on which the party desires time to be shortened.

(4) If the Court grants the application to shorten time and sets a shortened briefing schedule, such briefing schedule supersedes any schedule listed in the party’s CVR 7.1 FORM 1 “Notice of Motion and Motion.”

(5) When the application is made *ex parte*, the moving party shall file its application using the CVR 7.1 FORM 5 “Application for *Ex Parte* Relief; Order.”

(6) Pursuant to CVR 7.1(j)(2), if the party fails to provide either notice to the opposing/interested parties or sufficient justification for shortening time, the judge, in his or her discretion, may deny the application to shorten time and may schedule the underlying matter for a hearing as provided in these Civil Rules of Court or the Guam Rules of Civil Procedure.

(A) Applications for orders shortening time shall be granted or denied by the judge as soon as reasonably practicable under the circumstances.

(B) The judge need not hold a hearing on the application to shorten time.

COMMENT: This proposed amended rule would amend CVR 7.1(j) to clarify the necessary procedural steps to file an application for an order shortening time in circumstances that do not require an *ex parte* motion. To help applicants comply with this new procedure, the Subcommittee also proposes to adopt CVR 7.1 FORM 4. This proposal was adopted by the Subcommittee on Rules of Civil Procedure on October 19, 2021.

Comparison Chart
Proposed CVR 7.1(j) vs. Current CVR 7.1(j)

Proposed CVR 7.1(j)	Current CVR 7.1(j)
<p>(j) Applications for Orders Shortening Time.</p> <p>(1) When it is necessary for a matter to be heard earlier than the time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure, the party who desires to shorten time shall file a separate application for an order shortening time using CVR 7.1 FORM 4 “Application to Shorten Time; Order.”</p> <p>(2) Applications for an order to shorten time shall include the following information:</p> <p style="padding-left: 40px;">(A) The reasons why it is necessary to shorten time;</p> <p style="padding-left: 40px;">(B) That the opposing parties have been given notice of the application to shorten time, or if there is no opposing party, that all notices have been given as required by law; and</p> <p style="padding-left: 40px;">(C) Whether the opposing (or interested) parties agree to shorten time on the matter, or the reasons why an agreement on the application to shorten time could not be obtained.</p> <p>(3) A separate CVR 7.1 Form 1 “Notice of Motion and Motion” is not required to accompany the CVR 7.1 Form 4 “Application to Shorten Time; Order.” However, a CVR 7.1 Form 1 “Notice of Motion and Motion” is required to accompany the motion on which the party desires time to be shortened.</p> <p>(4) If the Court grants the application to shorten time and sets a shortened briefing schedule, such briefing schedule supersedes any schedule listed in the party’s CVR 7.1 FORM 1 “Notice of Motion and Motion.”</p> <p>(5) When the application is made <i>ex parte</i>, the moving party shall file its application using the CVR 7.1 FORM 5 “Application for <i>Ex Parte</i> Relief; Order.”</p> <p>(6) Pursuant to CVR 7.1(j)(2), if the party fails to provide either notice to the opposing/interested parties or sufficient justification for shortening time, the judge, in his or her discretion, may deny the application to shorten time and may schedule the underlying matter for a hearing as provided in these Civil Rules of Court or the Guam Rules of Civil Procedure.</p> <p style="padding-left: 40px;">(A) Applications for orders shortening time shall be granted or denied by the judge as soon as reasonably practicable under the circumstances.</p> <p style="padding-left: 40px;">(B) The judge need not hold a hearing on the application to shorten time.</p>	<p>(j) Orders Shortening Time. Applications for orders shortening the time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure for the filing of any paper or pleading or the doing of any act shall be supported by a declaration stating the reasons therefor. When the application is made <i>ex parte</i>, the declaration shall state the reasons why a stipulation could not be obtained or notice could not be given.</p>

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and address):

TELEPHONE NO.:

EMAIL ADDRESS:

ATTORNEY FOR (NAME):

IN THE SUPERIOR COURT OF GUAM

CASE NO. _____

Plaintiff(s)

v.

CVR 7.1 FORM 4

Defendant(s)

APPLICATION TO SHORTEN TIME; ORDER

1. I am applying to shorten time on the following motion, application, or requested relief:

2. Reason(s) necessary to shorten time:

3. Name of opposing parties (or attorneys), or if there are no opposing parties, the name of interested parties entitled to notice as required by law:

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4. **NOTICE** (Note: If opposing/interested parties *HAVE NOT BEEN GIVEN NOTICE*, this CVR 7.1 FORM 4 is *NOT APPLICABLE*. You must use CVR 7.1 FORM 5 “APPLICATION FOR EX PARTE RELIEF”):

The opposing (or interested) parties were notified of the relief requested; and I hereby certify that I will notify the opposing (or interested) parties of the hearing date and time as scheduled by the Court.

Notice was given to: _____

Notification occurred on (date): _____ at (time) _____ .m.

Manner of notification: _____

5. **AGREEMENT OR OPPOSITION OF OPPOSING (OR INTERESTED) PARTIES :**

The opposing (or interested) parties agree to shorten time on the moving party’s (insert name of motion, application, or requested relief listed in Section I.):

The opposing (or interested) parties oppose the application to shorten time for the following reasons:

The opposing (or interested) parties did not respond to notice of the application to shorten time or the parties have otherwise not discussed whether this application is opposed or unopposed.

I declare under penalty of perjury under the laws of Guam that the above information and all attachments are true and correct.

Date: _____

Signature: _____

Printed Name: _____

ORDER

Oral argument on the application to shorten time is set before the Court at the following date and time:

_____ at _____ .m.

Oppositions to the application to shorten time must be filed by _____ at

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_____ .m.

Replies to any oppositions must be filed by _____ at _____ .m.

OR

The Court hereby: GRANTS DENIES the application to shorten time for the following reasons:

The hearing on the moving party's (*insert name of motion, application, or requested relief listed in Section I.*):

_____ shall be held on _____ at _____ .m.

Oppositions to the _____ must be filed by _____ at _____ .m.

Replies to any oppositions must be filed by _____ at _____ .m.

SO ORDERED: _____

HONORABLE
Judge, Superior Court of Guam

Proposed Amended Rule
Local Rules of the Superior Court Guam, Civil Rule 7.1(k)

CVR 7.1. Motion Practice.

...

(k) Ex Parte Applications.

(1) The following rules shall apply to all applications seeking *ex parte* relief based on the party's personal knowledge of a lawful basis for granting relief *ex parte*, not including Family Violence Orders of Protection, governed by Miscellaneous Rules 2.1 through 2.1.10, except where those Rules or any Civil Rules of Court explicitly provide otherwise.

(2) All applications for *ex parte* relief shall be in writing and shall be filed using a CVR 7.1 FORM 5 "Application for *Ex Parte* Relief; Order" which shall include, or attach, the following:

(A) The case caption and the relief requested.

(B) A memorandum in support of the underlying relief requested containing the points and authorities upon which the moving party relies, including citations.

(C) A statement regarding the reasons *ex parte* relief is necessary which explains that, for reasons specified, the applicant should not be required to inform the opposing party, or if there is no opposing party, that any other notice as required by law should be waived.

(D) A statement indicating whether or not the party believes it is necessary for the matter to be heard on an expedited basis or earlier than the regular time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure. If the party believes it is necessary for the matter to be heard on an expedited basis, the party shall state the reasons therefore.

(E) A proposed order granting the underlying relief requested. The proposed order shall bear the signature of the attorney presenting it preceded by the words, "presented by" on the left side of the last page.

(3) A separate CVR 7.1 Form 1 "Notice of Motion and Motion" is not required to accompany the CVR 7.1 Form 5 "Application for *Ex Parte* Relief; Order."

(4) All applications for *ex parte* relief shall be heard by the judge assigned to the case unless the judge is unavailable.

(A) Pursuant to CVR 7.1(k)(2)(iii), if the moving party fails to provide sufficient justification to support waiver of the notice to the opposing party, or if there is no opposing party, any other notice as required by law, the judge, in his or her discretion, may decline to hear the matter *ex parte*.

(B) If the judge declines to hear the matter *ex parte*, the Court may schedule the underlying matter for a hearing. In such case, the moving party shall serve the notice of hearing on the opposing party, or if there is no opposing party, shall provide any other notice as required by law.

(C) The judge, in his or her discretion, may decline to hear the matter on an expedited basis or earlier than the regular time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure. If the judge declines to hear the matter on an expedited basis and has declined to hear the matter *ex parte*, the moving party shall serve the notice of hearing on the opposing party, or if there is no opposing party, shall provide any other notice as required by law.

COMMENT: The proposed new CVR 7.1(k) would replace in entirety Local Rule CVR 7.1.1 (“Ex Parte Application”). This proposed amended rule clarifies the procedure an applicant must comply with in filing an *ex parte* motion. To help applicants comply with this new procedure, the Subcommittee also proposes to adopt CVR 7.1 FORM 5. This proposal was adopted by the Subcommittee on Rules of Civil Procedure on October 19, 2021.

Comparison Chart
Proposed CVR 7.1(k) vs. Current CVR 7.1.1

Proposed CVR 7.1(k)	Current CVR 7.1.1
<p>(k) Ex Parte Applications.</p> <p>(1) The following rules shall apply to all applications seeking <i>ex parte</i> relief based on the party’s personal knowledge of a lawful basis for granting relief <i>ex parte</i>, not including Family Violence Orders of Protection, governed by Miscellaneous Rules 2.1 through 2.1.10, except where those Rules or any Civil Rules of Court explicitly provide otherwise.</p> <p>(2) All applications for <i>ex parte</i> relief shall be in writing and shall be filed using a CVR 7.1 FORM 5 “Application for <i>Ex Parte</i> Relief; Order” which shall include, or attach, the following:</p> <p style="padding-left: 40px;">(A) The case caption and the relief requested.</p> <p style="padding-left: 40px;">(B) A memorandum in support of the underlying relief requested containing the points and authorities upon which the moving party relies, including citations.</p> <p style="padding-left: 40px;">(C) A statement regarding the reasons <i>ex parte</i> relief is necessary which explains that, for reasons specified, the applicant should not be required to inform the opposing party, or if there is no opposing party, that any other notice as required by law should be waived.</p> <p style="padding-left: 40px;">(D) A statement indicating whether or not the party believes it is necessary for the matter to be heard on an expedited basis or earlier than the regular time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure. If the party believes it is necessary for the matter to be heard on an expedited basis, the party shall state the reasons therefore.</p> <p style="padding-left: 40px;">(E) A proposed order granting the underlying relief requested. The proposed order shall bear the signature of the attorney presenting it preceded by the words, “presented by” on the left side of the last page.</p> <p>(3) A separate CVR 7.1 Form 1 “Notice of Motion and Motion” is not required to accompany the CVR 7.1 Form 5 “Application for <i>Ex Parte</i> Relief; Order.”</p> <p>(4) All applications for <i>ex parte</i> relief shall be heard by the judge assigned to the case unless the judge is unavailable.</p> <p style="padding-left: 40px;">(A) Pursuant to CVR 7.1(k)(2)(iii), if the moving party fails to provide sufficient justification to support waiver of the notice to the opposing party, or if there is no opposing party, any other notice as required by law, the judge, in his or her discretion, may decline to hear the matter <i>ex parte</i>.</p> <p style="padding-left: 40px;">(B) If the judge declines to hear the matter <i>ex parte</i>, the Court may schedule the underlying matter for a hearing. In such case, the moving party shall serve the notice of hearing on the opposing party, or if there is no opposing party, shall provide any other notice as required by law.</p> <p style="padding-left: 40px;">(C) The judge, in his or her discretion, may decline to hear the matter on an expedited basis or earlier than the regular time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure. If the judge declines to hear the matter on an expedited basis and has declined to hear the matter <i>ex parte</i>, the moving party shall serve the notice of hearing on the opposing party, or if there is no opposing party, shall provide any other notice as required by law.</p>	<p>All applications for <i>ex parte</i> orders shall be heard by the judge assigned to the case unless the judge is unavailable. All other applications for <i>ex parte</i> orders shall be filed by 10:00 AM to be heard at 1:30 PM by the judge designated by the presiding judge as the <i>ex parte</i> judge, unless the <i>ex parte</i> judge in his or her discretion decides otherwise. Applications for <i>ex parte</i> orders shall be accompanied by a memorandum containing the name of counsel for the opposing party, if known, the reasons for the seeking of an <i>ex parte</i> order, and points and authorities in support thereof. There shall also be attached, within a separate cover, the proposed <i>ex parte</i> order. The proposed order shall bear the signature of the attorney presenting it preceded by the words, “presented by” on the left side of the last page.</p> <p>(a) Declaration of Counsel It shall be the duty of the attorney so applying to file a declaration containing the following:</p> <p style="padding-left: 40px;">(1) that a good faith effort has been made to advise counsel for all other parties, if known, or the parties themselves, if counsel is not known, of the date, time and substance of the proposed <i>ex parte</i> application or the reasons supporting the claim that notice should not be required, and</p> <p style="padding-left: 40px;">(2) the efforts to contact other counsel or the parties and whether any other counsel or party, after such advice, opposes the application or has requested to be present when the application is presented to the court, and if not filed in accordance with this rule, reasons why the <i>ex parte</i> application has not been timely filed.</p> <p>(b) Waiver of Notice. If the judge to whom the application is made finds that the interests of justice require that the <i>ex parte</i> application be heard without notice, the judge may waive the notice requirement of subpart (a)(1) of this section.</p>

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and address):

TELEPHONE NO.:

EMAIL ADDRESS:

ATTORNEY FOR (NAME):

IN THE SUPERIOR COURT OF GUAM

CASE NO. _____

Plaintiff(s)

v.

CVR 7.1 FORM 5

Defendant(s)

APPLICATION FOR *EX PARTE* RELIEF; ORDER

1. Type of relief requested:

2. Explain **in detail** the reason(s) *ex parte* relief is necessary (*e.g.*, notice of the application for *ex parte* relief would frustrate the purpose of the order sought, or applicant would suffer immediate and irreparable harm before the matter can be heard on notice):

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NOTE: IF NOTICE HAS BEEN GIVEN TO OPPOSING OR INTERESTED PARTIES, THIS CVR 7.1 FORM 5 IS NOT APPLICABLE. SEE CVR 7.1 FORM 4 "APPLICATION TO SHORTEN TIME."

3. Name of opposing parties (or attorneys), or if there are no opposing parties, the name of interested parties entitled to notice as required by law:

4. MEMORANDUM OF POINTS AND AUTHORITIES:

I hereby certify that I have attached the Memorandum of Points and Authorities as required by CVR 7.1(k)(2)(ii).

5. PROPOSED ORDER:

I hereby certify that I have attached a proposed order granting the relief requested as required by CVR 7.1(k)(2)(v).

6. STATEMENT REGARDING EXPEDITED BASIS:

I believe it is necessary for this application for *ex parte* relief to be heard on an expedited basis or earlier than the regular time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure for the following reasons:

It is not necessary for this application for *ex parte* relief to be heard on an expedited basis or earlier than the regular time permitted or required by these Civil Rules or the Guam Rules of Civil Procedure.

I declare under penalty of perjury under the laws of Guam that the above information and all attachments are true and correct.

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Date: _____

Signature: _____

Printed Name: _____

ORDER

The Court hereby: GRANTS DENIES the application to hear the matter *ex parte* for the following

reasons:

The Court hereby: GRANTS DENIES the request to hear the matter on an expedited basis for the following reasons:

The hearing on the matter shall be held on _____ at _____ .m.

SO ORDERED: _____

HONORABLE
Judge, Superior Court of Guam

**Proposed Amended Rule
Guam Rule of Civil Procedure 56**

Rule 56. Summary Judgment.

(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

(b) Time to File a Motion. Unless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery.

(c) Procedures.

(1) Supporting Factual Positions. A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

(2) Objection That a Fact Is Not Supported by Admissible Evidence. A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(3) Materials Not Cited. The court need consider only the cited materials, but it may consider other materials in the record.

(4) Affidavits or Declarations. An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

(d) When Facts are Unavailable to the Nonmovant. If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

(1) defer considering the motion or deny it;

- (2) allow time to obtain affidavits or declarations or to take discovery; or
- (3) issue any other appropriate order.

(e) **Failing to Properly Support or Address a Fact.** If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may:

- (1) give an opportunity to properly support or address the fact;
- (2) consider the fact undisputed for purposes of the motion;
- (3) grant summary judgment if the motion and supporting materials—including the facts considered undisputed—show that the movant is entitled to it; or
- (4) issue any other appropriate order.

(f) **Judgment Independent of the Motion.** After giving notice and a reasonable time to respond, the court may:

- (1) grant summary judgment for a nonmovant;
- (2) grant the motion on grounds not raised by a party; or
- (3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(g) **Failing to Grant All the Requested Relief.** If the court does not grant all the relief requested by the motion, it may enter an order stating any material fact—including an item of damages or other relief—that is not genuinely in dispute and treating the fact as established in the case.

(h) **Affidavit or Declaration Submitted in Bad Faith.** If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the court—after notice and a reasonable time to respond—may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.

SOURCE: FRCP 56 (2021).

COMMENT: These amendments would replace the existing GRCP 56 with the current Federal Rule of Civil Procedure 56 in its entirety.

Comparison Chart Proposed GRCP 56 vs. Current GRCP 56

Proposed GRCP 56	Current GRCP 56
<p>(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.</p> <p>(b) Time to File a Motion. Unless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery.</p> <p>(c) Procedures.</p> <p>(1) Supporting Factual Positions. A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:</p> <p style="padding-left: 40px;">(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or</p> <p style="padding-left: 40px;">(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.</p> <p>(2) Objection That a Fact Is Not Supported by Admissible Evidence. A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.</p> <p>(3) Materials Not Cited. The court need consider only the cited materials, but it may consider other materials in the record.</p> <p>(4) Affidavits or Declarations. An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.</p> <p>(d) When Facts are Unavailable to the Nonmovant. If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:</p>	<p>(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in the party's favor upon all or any part thereof.</p> <p>(b) For Defending Party. A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in the party's favor as to all or any part thereof.</p> <p>(c) Motion and Proceedings Thereon. The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.</p> <p>(d) Case Not Fully Adjudicated on Motion. If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action, the facts so specified shall be deemed established, and the trial shall be conducted accordingly.</p> <p>(e) Form of Affidavits; Further Testimony; Defense Required. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that</p>

<p>(1) defer considering the motion or deny it;</p> <p>(2) allow time to obtain affidavits or declarations or to take discovery; or</p> <p>(3) issue any other appropriate order.</p> <p>(e) Failing to Properly Support or Address a Fact. If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may:</p> <p>(1) give an opportunity to properly support or address the fact;</p> <p>(2) consider the fact undisputed for purposes of the motion;</p> <p>(3) grant summary judgment if the motion and supporting materials—including the facts considered undisputed—show that the movant is entitled to it; or</p> <p>(4) issue any other appropriate order.</p> <p>(f) Judgment Independent of the Motion. After giving notice and a reasonable time to respond, the court may:</p> <p>(1) grant summary judgment for a nonmovant;</p> <p>(2) grant the motion on grounds not raised by a party; or</p> <p>(3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.</p> <p>(g) Failing to Grant All the Requested Relief. If the court does not grant all the relief requested by the motion, it may enter an order stating any material fact—including an item of damages or other relief—that is not genuinely in dispute and treating the fact as established in the case.</p> <p>(h) Affidavit or Declaration Submitted in Bad Faith. If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the court—after notice and a reasonable time to respond—may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.</p>	<p>there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.</p> <p>(f) When Affidavits are Unavailable. Should it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had, or may make such other order as is just.</p> <p>(g) Affidavits Made in Bad Faith. Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.</p>
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Proposed Amended Rule
Local Rules of the Superior Court Guam, General Rule 1.1(c)

GR 1.1. Title; Effective Date; Scope.

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(c) Scope of the Rules: Construction. These Rules supplement the Guam Rules of Civil Procedure and the Guam Rules of Criminal Procedure. These Rules shall be construed so as to be consistent with applicable statutes to promote the just, efficient and economical determination of every action and proceeding. The provisions of the General Rules and the provisions of Civil Rules 7.1 ~~and 7.1.1~~ of the Local Rules of the Superior Court of Guam shall apply to all actions and proceedings, including civil, tax, and criminal, except where they may be inconsistent with rules or provisions of law specifically applicable thereto.

COMMENT: The amendment to GR 1.1(c) removed a reference to CVR 7.1.1, in light of the proposal by the Subcommittee on Rules of Civil Procedure to repeal CVR 7.1.1 and adopt a new CVR 7.1(k).

Proposed Amended Rule
Local Rules of the Superior Court of Guam, Miscellaneous Rule 2.1.3(a)(1)

MR 2.1.3(a). Hearings and Notice.

(a) Ex Parte Application for Temporary Order of Protection.

(1) An *ex parte* application for an Order of Protection shall be heard each day pursuant to these Rules. A ~~Rule-CVR 7.1.1~~ declaration regarding notice to the Respondent is required only in cases where Respondent is represented by counsel. In cases where Respondent is represented by counsel, it shall be the duty of Petitioner's counsel to file a declaration containing the following:

(A) that a good faith effort has been made to advise counsel for all other parties, if known, of the date, time and substance of the proposed ex parte application or the reasons supporting the claim that notice should not be required, and

(B) the efforts to contact other counsel or the parties and whether any other counsel or party, after such advice, opposes the application or has requested to be present when the application is presented to the court, and if not filed in accordance with this rule, reasons why the ex parte application has not been timely filed.

Notice is not required to be served on a pro se Respondent if such notice would further endanger the safety and welfare of the Petitioner and/or minor child/ren. The Clerk of Court will transmit the petition for immediate review and hearing at such times designated by the Ex Parte judge, or any available judge should the Ex Parte judge not be available.

COMMENT: This amendment clarifies the ex parte procedure for temporary orders or protection accordance with the ex parte procedures contained in the amendments to Rule 7.1(j).

**Proposed Amended Rule
Guam Rule of Civil Procedure 6**

Rule 6. Time.

(a) Computation. In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, a legal holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the Superior Court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule and in Rule 77(c), “legal holiday” includes New Year’s Day, Memorial Day, Independence Day, Liberation Day, Labor Day, Veterans’ Day, Thanksgiving Day, Christmas Day, and any other holiday appointed as a holiday by the President or Congress of the United States, by the laws of Guam, or by the Governor of Guam.

(b) Enlargement. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rules 50(b) and (c)(2), 52(b), 59(b), (d), and (e), and 60(b), except to the extent and under the conditions stated in them.

~~(c) [REPEALED] Shortening Time. When it is necessary to shorten time for the hearing of a motion, the party who desires to shorten time shall file a separate motion to shorten time, accompanied by a declaration setting forth the reasons why it is necessary to shorten time, and stating that the opposing party has been given notice of the motion to shorten time. If it is not possible to give the opposing party notice of the motion to shorten time, the moving party shall explain in the declaration why it is not possible to give notice, and what efforts were made to give notice. Whenever possible the court shall ensure time is afforded the opposing party to oppose by declaration or other pleading a motion to shorten time. The court need not hold a hearing on the motion to shorten time, but may order that the motion to shorten time be heard prior to the matter the movant desires heard on shortened time. If the motion to shorten time is granted, the court may order the parties to proceed with the matter at a time to be fixed by the court.~~

(d) For Motions–Affidavits. A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than 5 days before the time specified

for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and, except as provided in Rule 59(c), opposing affidavits may be served not later than one (1) day before the hearing, unless the court permits them to be served at some other time.

(e) Additional Time After Service By Mail under Rule 5(b)(2)(B), (C), or (D). Whenever a party has the right, or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party under Rule 5(B)(2)(B), (C), of (D), 3 days shall be added to the prescribed period.

COMMENT: The amendment repealed subsection (c) of GRCP 6, "Shortening Time," because orders shortening time would henceforth be covered by Rule 7.1(j).